

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Reissue Application of)	FOR: PREPARATION AND
)	TRANSFER SHEET
Patentee: RODERICK THOMPSON)	
)	
Patent No.: 5,472,790)	Reissue filed: herewith
)	
Issue Date: December 5, 1995)	Art Unit: unknown
)	

NOTICE OF RELATED PROCEEDINGS
AND PETITION TO MERGE PROCEEDINGS

Assistant Commissioner of Patents
Washington, D.C. 20231

Attention: Examiner

Dear Sir:

This patent to which the above-identified reissue application relates is currently involved in litigation pending in the Southern District of California, Case No. 96 2129 J CGA. The patent assignee, New Age Products, Inc., is the plaintiff in that litigation. The court has not yet issued any ruling on the merits. As may be required under 37 C.F.R. § 1.56(b), copies of papers filed by the litigation defendant that may be material to patentability in reissue are submitted in conjunction with the Information Disclosure Statement filed concurrently herewith.

In view of the co-pending litigation, applicant submits that this reissue application must not only be made "special" but is to have "priority over all other cases" pursuant to MPEP § 2261.

Furthermore, Applicant intends to petition the court to stay the co-pending litigation pending the outcome of this reissue application. Accordingly, pursuant to

[NOTATHOM97.A27]

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MPEP § 1442.02(4), Applicant hereby requests that this reissue application be examined at this time.

In addition, a reexamination, Control No. 90/004,752, was granted by order mailed November 25, 1997. The reexamination Requestor is the attorney for the litigation defendant. It is respectfully requested that this reissue be merged with the reexamination into a single proceeding, in accordance with 37 C.F.R. § 1.565(d) and the criteria set forth in MPEP § 2285(3). The issues presented in this reissue application fully encompass those presented in the reexamination. Moreover, the reexamination has only recently been begun. A Patent Owner's Statement is being filed in the reexamination on or about the date of this reissue application. If the proceedings are merged, Applicant would adopt the reissue application claims in the merged proceeding.

Furthermore, because the issues pertaining to patentability of the reissue claims are similar to the issues presented in the reexamination, Applicant respectfully requests that the Examiner consider Applicant's arguments in the Patent Owner's Statement filed in the reexamination and incorporated herein by reference.

Dated: January 28, 1998

By: 

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